



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

NOV 19 2019

REPLY TO THE ATTENTION OF

MEMORANDUM

**SUBJECT:** Recommendation to Issue a Finding of Violation to Diesel Ops, LLC and Orion Diesel, LLC in Waterford, Michigan

**FROM:** Sarah Marshall  
Acting Chief  
Air Enforcement and Compliance Assurance Branch

**TO:** Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance Division

I recommend that you issue a Finding of Violation to Diesel Ops, LLC (Diesel Ops) and Orion Diesel, LLC (Orion Diesel) for violating Section 203(a)(2)(A) of the Clean Air Act (CAA), 42 U.S.C. §§ 7522(a)(2)(A), by failing to provide information required under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Diesel Ops and Orion Diesel are being considered together because they share the same owner and the same single operating location. Additionally, most of Orion Diesel's products are sold through Diesel Ops.

On July 13, 2018 and December 19, 2019, EPA issued Finding of Violation letters to Diesel Ops and Orion Diesel, respectively, for violating Sections 203(a)(3)(A)-(B) of the CAA, 42 U.S.C. §§ 7522(a)(3)(A)-(B) by manufacturing, selling, and/or installing tens of thousands of defeat devices on motor vehicles and motor vehicle engines. Despite multiple information requests from EPA, the companies have thus far refused to provide all responsive documents. This matter was referred to the U.S. Department of Justice on July 31, 2019. A DOJ attorney is assigned and has reviewed and concurred with this FOV.

Attachment

State Representative Contacted:

Joyce Zhu, Chris Ethridge, & Jenine Camilleri

Date:

11/18/19

By:

Ethan Chatfield



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CHICAGO, IL 60604-3590

NOV 21 2019

REPLY TO THE ATTENTION OF

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Nicholas Piccolo  
Diesel Ops, LLC and Orion Diesel, LLC  
2956 Frembes Road  
Waterford, Michigan 48329

Re: Finding of Violation for Clean Air Act Violations

Dear Mr. Piccolo:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Diesel Ops, LLC and Orion Diesel, LLC (Diesel Ops and Orion Diesel or you) for violating the Clean Air Act (CAA), 42 U.S.C. §§ 7401-7671q. As summarized in the attached FOV, EPA has determined that Diesel Ops and Orion Diesel have violated and continue to violate Section 203(a)(2)(A) of the CAA, 42 U.S.C. §§ 7522(a)(2)(A) by failing to provide information required under Section 208(a) of the CAA, 42 U.S.C. § 7542(a).

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply, and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us any information responsive to the FOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contacts in this matter are Cody Yarbrough and Ethan Chatfield. You may call them at (312) 886-9137 or (312) 886-5112, respectively, to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

*Michael D. Harris*

Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance Division

Enclosure

cc: Steven D. Ellis, U.S. Department of Justice

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

Diesel Ops LLC/Orion Diesel LLC  
Waterford, Michigan

Proceedings Pursuant to  
The Clean Air Act,  
42 U.S.C. §§ 7401-7671q

**FINDING OF VIOLATION**

**EPA-5-20-MOB-01**

**FINDING OF VIOLATION**

The U.S. Environmental Protection Agency (EPA) is issuing this Finding of Violation (FOV) to Diesel Ops LLC (Diesel Ops) and Orion Diesel LLC (Orion Diesel) for violating the Clean Air Act (CAA), 42 U.S.C. §§ 7401-7671q, and its implementing regulations.

**Statutory and Regulatory Background**

1. Title II of the CAA was enacted to reduce air pollution from mobile sources. In enacting the CAA, Congress found, in part, that "the increasing use of motor vehicles...has resulted in mounting dangers to the public health and welfare." CAA § 101(a)(2), 42 U.S.C. § 7401(a)(2). Congress's purpose in enacting the CAA included "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population," and "to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution." CAA § 101(b)(1)-(2), 42 U.S.C. § 7401(b)(1)-(2).
2. Section 208(a) of the CAA, 42 U.S.C. § 7542(a), requires persons subject to Title II, Part A to maintain records and to provide information that EPA may reasonably require to determine whether the person has acted or is acting in compliance with the mobile source provisions of the CAA. Section 208(a) of the CAA, 42 U.S.C. § 7542(a).
3. Under Section 203(a)(2)(A) of the CAA, 42 U.S.C. § 7522(a)(2)(A), it is a prohibited act for any person to fail to provide information required under Section 208.
4. Section 216(2) of the CAA defines "Motor vehicle" as "any self-propelled vehicle designed for transporting persons or property on a street or highway." *See also* 40 C.F.R. § 85.1703 (further defining "motor vehicle").

**Facility Background**

5. Diesel Ops is an aftermarket automotive parts installer, supplier, and manufacturer located in Waterford, Michigan.
6. Orion Diesel is an aftermarket automotive parts installer, supplier, and manufacturer located in Waterford, Michigan.

7. Diesel Ops is a person, as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
8. Orion Diesel is a person, as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
9. On February 15, 2018, EPA issued a CAA Section 208 Information Request to Diesel Ops. Request 4(a)-(c) seeks copies of all receipts or invoices for certain products Diesel Ops manufactured, produced, purchased, imported, sold, and/or distributed. With the exception of 35 redacted receipts/invoices related to tampering work performed by Diesel Ops, as of the date of this FOV, Diesel Ops has failed to provide these documents.
10. On September 18, 2018, EPA issued a CAA Section 208 Information Request to Orion Diesel. Request 4(a)-(c) seeks copies of all receipts or invoices for certain products Orion Diesel manufactured, produced, purchased, imported, sold, and/or distributed. As of the date of this FOV, Orion Diesel has failed to provide these documents.
11. On July 31, 2019, EPA issued a CAA Section 208 Information Request to Diesel Ops and Orion Diesel. Among other things, this Request sought, for a second time, all receipts and invoices that Diesel Ops and Orion Diesel did not provide in response to EPA's February 15, 2018 and September 18, 2018 information requests. In addition, this Request sought all similar receipts or invoices relevant to transactions occurring after the dates of the previous requests. As of the date of this FOV, Diesel Ops and Orion Diesel have failed to provide these documents.
12. On September 11, 2019, EPA sent a letter to Diesel Ops and Orion Diesel regarding the company's failure to respond to EPA's July 31, 2019 Information Request and provided an additional two-week extension to provide a response. As of the date of this FOV, EPA has not received a response to this Request.

### **Violations**

13. EPA finds that Diesel Ops and Orion Diesel have violated and continue to violate Section 203(a)(2)(A) of the CAA, 42 U.S.C. §§ 7522(a)(2)(A) by failing to provide information required under Section 208(a) of the CAA, 42 U.S.C. § 7542(a).

### **Enforcement Authority**

14. EPA may bring an enforcement action for these violations under its administrative authority or by referring this matter to the United States Department of Justice with a recommendation that a civil complaint be filed in federal district court. CAA §§ 204 and 205, 42 U.S.C. §§ 7523 and 7524. Persons violating Section 203(a)(2)(A) of the CAA, 42 U.S.C. § 7522(a)(2)(A) are subject to an injunction under Section 204 of the CAA, 42 U.S.C. § 7523, and civil penalties of up to \$47,357 per day for each violation occurring after November 2, 2015 and assessed on or after January 15, 2019.

42 U.S.C. §§ 7524(a), 7525(a), as modified by 40 C.F.R. § 19.4 (2019); 84 Fed. Reg. 2056 (February 6, 2019); 84 Fed. Reg. 5955 (February 25, 2019).

11/21/2019  
Date

Michael D. Harris  
Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance Division

**CERTIFICATE OF MAILING**

I certify that I sent a Finding of Violation, No. EPA-5-20-MOB-01, by Certified Mail, Return Receipt Requested, to:

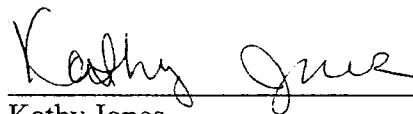
Nicholas Piccolo  
Diesel Ops  
2956 Frembes Road  
Waterford, Michigan 48329

I also certify that I sent a Finding of Violation, by e-mail to:

Jenine Camilleri  
Enforcement Unit Supervisor  
Air Quality Division  
Michigan Department of Environmental Quality  
[CamilleriJ@michigan.gov](mailto:CamilleriJ@michigan.gov)

Joyce Zhu (Acting District Supervisor)  
Southeast Michigan District Office  
Michigan Department of Environmental Quality  
[Zhuj@michigan.gov](mailto:Zhuj@michigan.gov)

On the 21<sup>st</sup> day of November 2019.



Kathy Jones  
Program Technician  
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7019 0140 0000 0722 3284